of such a body submit to the jurisdiction thereof in matters of faith or individual conduct affecting their relations as members. Therefore accusations made by one member against another, to a body competent to give judgment upon the merit of such charges, are privileged when made without malice. *Lucas* v. *Case,* 72 Ky. 297; *Landis* v. *Campbell,* 79 Mo. 433; *Howard* v. *Dickie,* 120 Mich. 238; *Farnsworth* v. *Storrs,* supra. This doctrine has been extended so as to cover proceedings of voluntary associations and societies, as well as church disciplinary bodies. *Streety* v. *Wood,* 15 Barb. 105; *Barrows* v. *Bell,* 7 Gray 301. But is must be remembered that this privilege is qualified, and that the rules of law applicable in cases of qualified privilege apply here. Thus, if maliciously made, a statement ordinarily not actionable, as made under privileged circumstances, will become so. *Dial* v. *Holter,* 6 Ohio State 228; *White* v. *Nicholls,* 44 U. S. 266; *Elam* v. *Badger,* 23 Ill. 498. Whether or not there was express malice is a question of fact for the jury, the burden being upon the plaintiff to overcome the presumption of lack of malice raised by the privileged circumstances. *Johnson* v. *Brown,* 13 W. Va. 71; *King* v. *Patterson,* 49 N. J. Law 417; *Liddle* v. *Hodges,* 15 N. Y. Super Ct. 537; *Hagan* v. *Hendry,* 18 Md. 177.

MUNICIPAL CORPORATIONS—ESTOPPEL.—The Building Code of the city of Detroit made certain rules as to the erection of tenement houses, but no rule was made requiring a permit for their construction. The Department of Buildings gave defendants a permit to build a tenement which violated one of the requirements of the Code. The building was begun, and about two months later this violation was discovered and written notice served on defendants to stop work; six weeks later the permit was formally revoked, but the defendants continued work even after this. At the suit of the Department of Buildings, the lower court granted a permanent injunction restraining the further construction of the building until the defendants complied with the provisions of the Code. Defendants appealed, claiming that the Department of Buildings, after issuing the permit and allowing defendants to expend large sums of money on the building, was estopped from complaining of the violation of the ordinance. *Held,* that there was no estoppel. *Building Commission of City of Detroit* v. *Kunin,* (Mich. 1914) 148 N. W. 207.

The estoppel of a municipal corporation is, in many cases, made to depend on the distinction between private and governmental functions. *City of Litchfield* v. *Litchfield Water Supply Co.,* 95 Ill. App. 647, holds that a municipal corporation may be estopped by the action of its *proper* officer, when the corporation is acting in its private, as contra-distinguished from its governmental, capacity. The modern and more accurate division of municipal powers into *governmental, municipal,* and *commercial* functions seems not to have been recognized in the cases dealing with this question. In *Martel* v. *City of East St. Louis,* 94 Ill. 67, the court says: "Any positive acts by municipal officers which may have induced the action of the adverse party, and when it would be inequitable to permit the corporation to stultify itself by retracting what its officers had done, will work an estopped." This rule is

somewhat qualified, however, by the further statement: "The doctrine of estoppel in pais applies to municipal corporations, but the public will only be estopped, or not, as justice and right may require." The cases cited by the court in that case, however, are all cases of tort or contract liability on the part of the city, and the rule seems not to have been extended to restrict the proper exercise of its governmental functions. In *Philadelphia & Co.* v. *Omaha,* 65 Neb. 93, 90 N. W. 1005, 57 L. R. A. 150, it was said: "The authorities directly in point are few, and the question must be decided by principle and analogy. It is too important to be settled by mere dictum, and ought to be left open." This case had been argued first on the ground of estoppel of the city to collect some back taxes which its treasurer had erroneously marked "paid," which record was relied on by a third party in loaning money and obtaining title to the land. It was first held that the city was not estopped to assert its right, but upon the re-hearing it was decided that a statute sufficiently covered the case, so the principles of estoppel were held not to apply. Therefore, the first decision is now mere dictum, but HOLCOMB, J., gives a good review of the authorities supporting his decision, 63 Neb. 280. 93 Am. St. Rep. 442, 88 N. W. 523. Two cases practically in point on the facts, though not raising the question of estoppel, but affirming the power of the corporation to restrain further building operations in violation of their permit, and even requiring the removal of the building, are: *Brooklyn* v. *Furey,* 9 Misc. [N. Y.] 193, 30 N. Y. Supp. 349 and *O'Bryan* v. *Highland Apartment Co.,* 128 Ky. 282, 108 S. W. 257, 15 L. R. A. 419. In the principal case, stress is laid on the fact that the permit issued was not required by law, and its issuance was *ultra vires.* That such an act will not bind or estop the corporation is supported by the decisions in *Abell* v. *Prairie Civil T'w'p.,* 4 Ind. App. 599, 31 N. E. 477; *Fairtitle* v. *Gilbert,* 2 T. R. 169; *N. Y. Fire Dep't.* v. *Buffum,* 2 E. D. Smith 511; *Snyder* v. *City of Mt. Pulaski,* 176 Ill. 397, 52 N. E. 62, 44 L. R. A. 407.

NEGLIGENCE—CONTRIBUTORY NEGLIGENCE.—Plaintiff went to defendant company's station for the purpose of helping his daughter on the train. When the train came, plaintiff, who was carrying a baby, told the conductor that he wished to help his daughter on the train. The conductor replied, "All right." Before plaintiff had time to alight, the train started, and in attempting to get off the train, he was thrown by a sudden jerk onto the platform, breaking his shoulder. *Held,* that a person who attempts to alight from a slow-moving train is not guilty of contributory negligence as a matter of law, and may recover if his conduct is in accord with what an ordinarily prudent man would do under similar circumstances. *Chesapeake, etc. Ry. C.* v. *Dean* (Ky. 1914), 170 S. W. 167.

The doctrine established by the case above cited is sustained by one line of decisions in this country, on the theory that the act of a party in stepping off a moving train is to be judged by the same test as all other acts where negligence is claimed, i. e., whether it is what could be expected from an ordinarily prudent man under the same circumstances. *Carr* v. *Eel River, etc. R. R. Co.,* 98 Cal. 366; *Van Ostran* v. *N. Y. Cent. Ry. Co.,* 35 Hun. 590;